

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON APPROPRIATIONS

Call to Order: By **CHAIRMAN STEVE VICK**, on January 24, 2001 at 3:00 P.M., in Room 102 Capitol.

ROLL CALL

Members Present:

Rep. Steve Vick, Chairman (R)
Rep. Dave Lewis, Vice Chairman (R)
Rep. Matt McCann, Vice Chairman (D)
Rep. John Brueggeman (R)
Rep. Rosalie (Rosie) Buzzas (D)
Rep. Tim Callahan (D)
Rep. Edith Clark (R)
Rep. Stanley Fisher (R)
Rep. Dick Haines (R)
Rep. Joey Jayne (D)
Rep. Dave Kasten (R)
Rep. Christine Kaufmann (D)
Rep. Monica Lindeen (D)
Rep. Jeff Pattison (R)
Rep. Art Peterson (R)
Rep. Joe Tropila (D)
Rep. John Witt (R)

Members Excused: Rep. Bob Davies (R)

Members Absent: None.

Staff Present: Robyn Lund, Committee Secretary
Taryn Purdy, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 318, 1/19/2001
HB 303, 1/19/2001

HEARING ON HB 318

Sponsor: Representative Tom Facey, HD 67

Proponents: Patti Keebler, AFLCIO
Pat Clinch, Montana Firefighters Association
Bob Bergen, Montana Firefighters Association
Jim Oppendahl, Montana Board of Crime Control
Troy McGee, Montana Chiefs Association
Jerry Williams, Montana Police Protective Association

Opponents: None

Opening Statement by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 0.4}

Representative Tom Facey, HD 67, started by telling the story of Officer Bob Heinley, who was shot on duty leaving him paralyzed from the neck down. Although he had never met the officer, it touched him. The community of Missoula came to Officer Heinley's aide in helping raise money to assist in the costs of his injury. Rep. Facey stated that his question was, what happens when this happens in a smaller community. The Missoula community was able to raise \$80,000 for the officer. Smaller communities could not raise as much. Health insurance and workmans' comp are great, but they do not address ongoing quality of life issues. HB 318 allows community groups, such as the Lions Club, to raise funds for the officer and to have those funds matched by the state. This would not only help in medical costs, but also quality of life issues. This bill will also cover firemen and EMTs, they too risk their life for us. The bill currently has two gate keepers for any expenditure. The first is that a local organization must be involved. The second one is administrative rules that will be applied by the Department of Administration. He then passed out the fiscal note for \$39,000,000, which he emphasized was a mistake. He then said that he had an amendment that will fix it. The amendment will have these funds come out of the general funds when needed, it does away with the crime victims' assistance account, and does away with sections 3, 4, 6, and 7. Rep. Facey stated that the policy question that needs to be answered is: Should we offer a way for a community to help its public safety officers regain a quality of life when they are hurt catastrophically. If we want to offer that, should that money come from the general fund. He also asked the committee to consider how many times in the last 10 years do they know about a police officer, fireman, or EMT in their community that was catastrophically hurt.

Proponents' Testimony:

{Tape : 1; Side : A; Approx. Time Counter : 7.8}

Jerry Williams, police officer, Butte/Silverbow, Montana Police Protective Association, which represents over 530 police officers in the state of Montana. He was able to observe the Missoula Police Association and the community of Missoula at work when Officer Heinley was injured. He stated that to see the devastation created by one person was something that shook him, to realize that anyone who wears the uniform could end up in the same situation. It was tragic. What was more tragic was when he spoke with Missoula police officers, and went to some of the fund raising events, and realized that the fund raising was only going to help a little bit. There had to be construction done on the home; new vehicles had to be purchased; the expenses were tremendous and ongoing.

Troy McGee, Police Chief, Helena, Chiefs of Police Association, stands in support of this bill.

Pat Clinch, Montana State Council of Professional Firefighters, said that he collects a lot of requests for assistance for firefighters who have been injured in the line of duty. Many of these firefighters who are catastrophically injured no longer have the ability to raise additional funds and insurance doesn't cover the necessary needs. This bill will help us to help these people. There will probably be about one firefighter per year that will go out on a disability retirement. Less than 10% of those will be a service related disability. In the 20 years that he has been in the fire service there has only been one firefighter who was catastrophically injured while on duty. This isn't an everyday basis. This will be a very small cost, but a tremendous help.

Patty Keebler, AFLCIO, said that, on behalf of the 42,000 working families in the AFLCIO, she offers their support for this bill. It is a decent and humanitarian measure for working families who suffer from crushing costs resulting from a catastrophic injury in the line of duty.

Bob Bergen, Montana State Firemen's Association, said that his organization rises in support of HB 318.

Jim Oppendahl, Montana Board of Crime Control, stated that his organization supports this bill based on two issues. First, the hazards inherent in law enforcement has a tendency to discourage qualified individuals from seeking careers in law enforcement and this hampers the ability of communities to provide public safety.

Second, the need to make a strong statement that expresses the value that is placed on the contributions that officers make to public safety, often at the risk of their health and sometimes their lives. This bill can have an impact on providing peace of mind for those in public safety and their families.

Opponents' Testimony:

{Tape : 1; Side : A; Approx. Time Counter : 14.3}

Jaqueline Lenmark, American Insurance Association, and also speaking for **Greg VanHorssen, State Farm Insurance**, said that there is a compelling policy question here. She stated that they had no comment on the policy that is incorporated in this bill, only an objection to the funding source. If the amendments that were mentioned by the sponsor go on the bill their objection will be withdrawn. They do not support any earmarked use of the premium taxes that are paid to the state, all funding decisions should be made with respect to the general fund and the good judgement of this committee and the legislature.

Questions from Committee Members and Responses:

{Tape : 1; Side : A; Approx. Time Counter : 16}

REPRESENTATIVE DAVE KASTEN asked, of the sponsor, if the amended fiscal note would be available. **Rep. Facey** said that his impression was that one of the amendments says, insert up to \$50,000 of statutorily appropriated funds as provided in the 17-7-502 from the general fund to the department of administration on an annual basis for the purposes of providing matching funds to an organization if it applies and qualifies under this section. He said that if the \$50,000 is not used in a calendar year it will be returned to the general fund. This does not grow as time goes by. He then passed out the amendment.

REP. KASTEN asked, of Jaqueline Lenmark, has she seen the amendment. **Ms. Lenmark** replied that she has not, but had heard it described by Rep. Facey.

Taryn Purdy explained that the amendment takes out the funding sources that caused the fiscal note to appear as it did. It no longer references the premium tax, and instead, the maximum cost of this bill would be \$100,000 each year because there is \$50,000 statutorily appropriated for each of the type of public safety officers. This would be statutorily appropriated of the general fund.

REP. KASTEN, asked, of Mr. Williams, if there was a figure for the police officers of how many officers per year. **Mr. Williams** replied that he was not aware of anyone that had been catastrophically injured in his tenure are a police officer, except Officer Heinley.

REPRESENTATIVE JOE TROPILA asked, of Ms. Lenmark, what she thought of the amendments. **Ms. Lenmark** replied that they were lovely and if they go on the bill her objections to the bill would be withdrawn.

REPRESENTATIVE CHRISTINE KAUFMANN asked, of the sponsor, referring to page 2, lines 3 - 6, about the definition of catastrophically injured. She gave an example of an officer who was shot, unable to serve as an officer, takes early retirement, he and his wife buy an RV and travel; obviously it was catastrophic at the time, but perhaps not a quality of life issue in the long run; would this be available or is there someone who would evaluate what is catastrophic and what is not. **Rep. Facey** said that he thought this person would qualify as catastrophic because at maximum healing he is not able to perform his duties. He thinks that the other gate keeper is the community where the person is living. The members of the community know the circumstances of the injury. If their heart went out to it, that would be an appropriate response.

REPRESENTATIVE STEVE VICK asked, of the sponsor, how much money was raised for the officer in Missoula. **Rep. Facey** replied between \$80,000 and \$100,000. **REP. VICK** then asked, in that case, would they have been eligible for the match. **Rep. Facey** replied that he believed they would. He has continued quality of life issues that come up. Workmens' comp doesn't address quality of life, things like handicap access.

REP. VICK asked, of the sponsor, where many EMTs are employees of private companies, does this bill cover them too. **Rep. Facey** replied that that wasn't his intent. He wanted to cover the public service type of employee.

REPRESENTATIVE MONICA LINDEEN, asked, of the sponsor, if this was in place and a similar situation happened, there was a fund raiser and the state matched the funds, if the community then decided two years later to raise money again for the same officer, would the state match them again. **Rep. Facey** replied that an appropriate amendment would be for one time only per occurrence.

Rep. Facey stated, referring to an earlier question, on page 2, line 10, section 2, it says matching funds for public safety

workers. **REP. VICK** wondered why an EMT who works for the county or city would be covered, but an EMT who works for a private carrier would not be, if they are both providing similar types of work. They are providing a public service even if they work for a private employer.

Closing by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 27.5}

Rep. Facey said that approximately one firefighter per year retires on a disability, about 10% of those are from a work-related injury. That means, on the average, one person per 10 years. He believes that this bill revolves around quality of life type issues for public service workers. He tried to accommodate Montana in terms of the size and scale where small communities will qualify for a 5 to 1 match and larger communities will have a 3 to 1 match.

HEARING ON 303

Sponsor: Representative Joey Jayne, HD 73

Proponents: Matthew Dale, Friendship Center
Patti Keebler, Montana AFLCIO
Jaqueline Lenmark, State Bar of Montana
Rebecca Moog, MWL
Sharon Hoff-Brodowy, Montana Catholic Conference
Susan Tucker, MCADSV
Allison Pall, Montana Legal Services

Opponents: None

Opening Statement by Sponsor:

Representative Joey Jayne, HD 73, said that HB 303 deals with funding legal representation for indigent victims of domestic violence cases. The purpose of the bill is to transfer \$375,000 for the first biennium and \$375,000 in the second biennium, which would go to the existing civil legal assistance for indigent victims of domestic violence account. This account was established by the 1999 legislature under the code. The account was administered by the supreme court administrator's office. Organizations that render or finance legal services for indigent persons in civil matters may apply to receive funds from this

account. When this fund was established the legislature also established a filing fee on civil actions in district court and that fee was \$9. That \$9 has been collected and has now accumulated in this account. There is \$125,000 in this account. The reason that this money was not used is because the money was inadvertently not included in the appropriation bill in 1999, therefore it was not disbursed and can't be disbursed until there is legal authorization to do so. It is estimated that the \$9 filing fee will bring in about \$75,000 per year. When this money is added to the appropriation requested in HB 303 it will provide about \$450,000 in each of the 2002 and the 2003 years to fund civil legal assistance for domestic violence victims in Montana. One of the biggest things reported by domestic violence shelters in Montana is a lack of access for legal representation and legal information for victims of domestic violence. Many victims are low income and therefore it is harder for them to get legal representation. According to the Montana Board of Control, there were about 7000 domestic violence victims and their families that received domestic violence moneys during the year from July 1, 1999 to June 30, 2000. Of those, 80% were low income.

Proponents' Testimony:

Allison Pall, MSLA Domestic Violence Unit, submitted written testimony. **EXHIBIT** (aph19a01)

Sharon Hoff-Brodowy, Montana Catholic Conference, began by saying that life is a continuum. From the time of birth until the time of death, it should be respected and cherished. However, many families find themselves in situations that don't give a sense of being cherished. She encourages the committee to use this bill to help the women who don't have the resources themselves to get the kind of help that they need. She shared that she was in a violent marriage. She said that the last straw was sitting at the dinner table with her children and having her husband point a gun at her and pull the trigger four times. The gun was not loaded, but you can imagine the terror that she felt. Worse was the fact that her children were sitting there and they thought it was funny. She was fortunate that she had a job and she could find the legal help that she needed. She can only imagine being without any kind of resources and no place to go. She hopes that the committee will put the money in the fund to help these people get out of really bad situations.

Susan Tucker, Montana Coalition Against Domestic and Sexual Violence, has worked with domestic violence victims for almost five years. The needs of victims remain the same, the need is legal representation. Often the victim is threatened with losing

her children if she doesn't stay with the abuser. This threat is one of the main reasons why a victim will stay in an abusive relationship. However, if the victim has access to legal services she is more willing to leave this type of situation. Montana Legal Service Association has helped many victims with divorce, child custody and orders of protection. Without their help, children and victims would have to endure even more abuse.

{Tape : 1; Side : B; Approx. Time Counter : 6.6}

Matthew Dales, Friendship Center, was here to speak in support of HB 303. A lack of access to legal assistance in an enormous challenge for individuals who have decided to leave a violent relationship. Legal assistance is essential for the chance to leave permanently and have a chance to start over in a positive, healthy environment. Once the victims are out of the relationship there is still a lot that must be done to begin the healing process; permanent safe housing must be secured, health care needs met, counseling begun, and long-range plans established. Difficult decisions about the marriage and custody must be undertaken. Women immediately begin to wonder about their rights and responsibilities for both themselves and their children. Shelter staff is not equipped to answer these questions. Many times the abuser has threatened to take the children away or convinced the woman that she is an unfit mother. Based on this fear the woman is very quickly looking for legal information. Not being able to get her legal assistance is a huge gap in shelter services. Ignorance of her rights and options can lead to a woman returning to her spouse. Mr. Dale stated that two years ago the Montana legislature approved funds to improve the situation for indigent survivors of domestic violence who needed legal help. Now we are asking for additional assistance to cover a larger part of the state. These funds help change lives, additional funds will translate directly into helping greater numbers of people. Correct and timely legal advice is a key step in a woman's decision to leave and stay away from a violent situation.

Jaqueline Lenmark, State Bar of Montana, talked about pro bono work. Pro bono means for the public good. All lawyers have an obligation to the community in which they reside. She is a member of the pro bono committee, and that committee is made of members of the state bar that feel a special obligation to meet this community obligation. All lawyers are encouraged to donate at least 50 hours of legal, billable time to the public good. In her experience, she knows that the majority of cases that receive pro bono support are domestic relations cases. A high percentage of those deal with domestic violence. For a lawyer who practices corporate or tax law, it is hard to take over a case dealing with domestic issues. The person who needs the representation may not

get the very best representation that they should have. Those who work on these pro bono committees, and other interested people have devised a number of different ways to address this problem. The first way is, lawyers donate their time directly. The second way is, larger firms retain a lawyer who is dedicated to this kind of work and the firms compensate them to develop the expertise that is necessary. Even those two methods don't feel the gap, stepping in to fill that gap has been Montana Legal Services Association and organizations like the Friendship Center. These organizations truly can turn stones into soup. They do miracles with very little money.

Patty Keebler, AFLCIO, stated that HB 303 is a good bill that will help some of our most vulnerable neighbors and friends through some very frightening times.

(Further testimony will be taken on February 8th, 2001.)

Questions from Committee Members and Responses:

{Tape : 1; Side : B; Approx. Time Counter : 16}

REPRESENTATIVE MATT McCANN asked, regarding the existing account, this account has \$125,000 in it, it is funded with a fee, what was that fee? **Rep. Jayne** said that in the Montana State Code, under civil procedure, it says courts can access individuals coming in with filing fees. There is a \$9 fee that has to be deposited into this account. **REP. McCANN** then asked, apparently this account was left out of HB 2, how much was spent out of that account in 1998. **Rep. Jayne** didn't believe that this account had been established in 1998. It was established in 1999, and she believes that none has been expended. **REP. McCANN** asked how much is generated into this account per year. **Rep. Jayne** replied that there is an estimation of \$125,000, which exists right now in the fund that can't be disbursed because it was not part of the authorization to disburse it in the last legislative session. **REP. McCANN** then said that there was a gap in services that existed due to this non-appropriation of funds. The people that needed these services, how were they able to afford services? **Rep. Jayne** said that the Montana Legal Services Association was in place at that time, so they had attorneys and support staff to provide that type of service to indigent victims. **REP. McCANN** asked how much MLSA spent providing those services. **Neil Haight, MSLA**, replied that there is presently funding through grants from various places. This would replace that funding. **REP. McCANN** asked for the actual amount. **Mr. Haight** deferred the question to Susan Tucker. **Ms. Tucker** stated that they run on an 18-month cycle from the Department of Justice with a federal grant, that

grant will expire in 2002. They receive \$400,000 for that 18 month period.

REPRESENTATIVE DAVE LEWIS stated that he had an amendment for HB 3 for \$125,000 to give the program the authority to spend the money that has built up in that account. He stated that there was clearly an oversight in HB 2. To correct that the amendment in HB 3 will give spending authority to the program to reimburse Legal Services for the work they have done over the last year and a half.

REPRESENTATIVE STEVE VICK asked, of the sponsor, he understands that there are five attorneys in the program now, and Rep. Jayne would like to expand this to nine. Where will these attorneys be located? **Rep. Jayne** deferred that to Neil Haight. **Mr. Haight** stated that they plan to have attorneys in Glasgow, Miles City, Billings, Butte, Missoula, Kalispell, Great Falls, and Helena. There is presently a tribal advocate in Browning, and they are contemplating a second in the Fort Belknap and the Rocky Boy reservations. **REP. VICK** then asked about the counties that don't have an attorney, if these people are indigent, how do they find out about these services and contact the attorney. **Mr. Haight** replied that many come through shelters. The MSLA has agreements with most of the shelters, and they get more work than they can handle this way.

Closing by Sponsor:

{Tape : 1; Side : B; Approx. Time Counter : 25.1}

Rep. Jayne wanted to underscore that this funding account is all ready in place and that the funding would go to any organization that assists domestic violence victims. She emphasized the need for legal representation for domestic violence victims. Much of the legal assistance goes to dissolution of marriages, developing parenting plans, developing custody orders and child support orders, and often protective orders. She urges the committee to support this bill.

ADJOURNMENT

Adjournment: 4:05 P.M.

REP. STEVE VICK, Chairman

ROBYN LUND, Secretary

SV/RL

EXHIBIT (aph19aad)